

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

MDL NO. 3:16-MD-02738
JUDGE FREDA L. WOLFSON
MAG. JUDGE LOIS H. GOODMAN

**THIS RELATES TO DOC ID 14906,
CASES INCLUDED ON EXHIBIT A
TO DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' COMPLAINT
PURSUANT TO 41B:**

**Dale Richard v. Johnson & Johnson et al.
Case No. 3:18-cv-10712**

RESPONSE TO DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' COMPLAINT PURSUANT TO 41B

Plaintiff, Dale Richard, through undersigned counsel, respectfully appears to oppose the dismissal of her case for failure to comply with the Court's Orders. Plaintiff is cited by Defendants as having a materially deficient PPF. Counsel can state that Plaintiff is and has always been willing and cooperative with her Counsel, and has provided information whenever it was requested of her. Undersigned counsel notes that Ms. Richard willingly assisted us with information even when she convalescing from a hip replacement surgery. Ms. Richard signed authorization and declarations, and provided core medical records. Ms. Richard was identified as a plaintiff with a deficient PPF in the Court's Order [Doc. No. 14749] requiring PPF completion. In response, the PPF on MDL Centrality was amended on 9/21/20, and answers to the questions on Tubal Litigation, BRCA1 or BRCA2 condition, Breast cancer, Lynch Syndrome

Condition, and family genetic mutation history supplied, and the height, weight and smoking status supplied.

However, through no fault of Ms. Richard, when an amended PPF was submitted on September 21, 2020, incorporating information from Ms. Richard, the portion of the PPF listing the physicians was erroneously not completed. Plaintiff points out that her medical records containing her diagnosis for papillary serous cystadenocarcinoma ovarian cancer, which identified her cancer related treating providers, had been uploaded since August 25, 2020. But Defendants are accurate in pointing out that Ms. Richard's counsel and their staff missed that those providers were not listed in the PPF physician section 9. Those providers and related information have been added as of this date. All of the providers that Ms. Richard can recall seeing, including her long time obi-gyn and family practitioner, have been identified and her PPF updated to reflect these.

Ms. Richard has readily and willingly provided all information that she was asked to provide. Her counsel's failure in answering eight of the nine deficiencies, while admittedly overlooking one section of an otherwise completed PPF, when coupled with the core cancer injury related medical information having been provided via medical records in August, suggests that the Defendants have not been prejudiced to the point that dismissing her case entirely is warranted.

Counsel deeply apologizes to the Court and to Defendants and for the oversight, and for the resources expended because of that oversight.

Plaintiff respectfully requests that her case not be dismissed, as she personally has complied with all requests made to her. She prays that her substantial compliance allows her to continue her case until its ultimate resolution.

Submitted October 19, 2020

/s/ Richard L. Root

Richard L. Root, LA # 19988

Morris Bart, LLC

601 Poydras St., 24th Fl.

New Orleans, LA 70130

Phone: (504) 525-8000

Fax: (504) 599-3392

rroot@morrisbart.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

MDL NO. 3:16-MD-02738
JUDGE FREDA L. WOLFSON
MAG. JUDGE LOIS H. GOODMAN

**THIS RELATES TO DOC ID 14906,
CASES INCLUDED ON EXHIBIT A
TO DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' COMPLAINT
PURSUANT TO 41B:**

Dale Richard v. Johnson & Johnson et al.
Case No. 3:18-cv-10712

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached document was served upon each attorney
of record through the Court's Electronic Court Filing System.

Submitted October 19, 2020

/s/ Richard L. Root